

(7) *New Units and Retired Units Exemptions.* The State permitting authority shall act in accordance with §§ 72.7 and 72.8 on any petition for exemption of a new unit or retired unit from requirements of the Acid Rain Program.

(8) *State Permit Evaluation.* The State permitting authority shall periodically evaluate the extent to which its operating permit program meets the Acid Rain Program requirements and supports a cost-effective implementation of the program. The permit fee rates set by the State permitting authority shall be adequate to cover such evaluation.

[58 FR 3650, Jan. 11, 1993, as amended at 60 FR 17113, Apr. 4, 1995]

§ 72.73 State issuance of Phase II permits.

(a) *State Permit Issuance.* (1) A State with an operating permit program that has been approved by the Administrator under this part and part 70 of this chapter on or before July 1, 1996, shall be responsible for issuing Acid Rain permits for Phase II to all affected sources in that State.

(2) A State that has obtained interim operating permit program approval (as defined in § 70.4(d) of this chapter) on or before July 1, 1996 shall be responsible for issuing Acid Rain permits for Phase II to all affected sources in that State.

(3) A State that has obtained partial operating permit program approval (as defined in § 70.4(c) of this chapter) on or before July 1, 1996 shall be responsible for issuing Acid Rain permits for Phase II to all affected sources in the geographic area to which the partial approval applies.

(4) The State permitting authority shall comply with the procedures for issuance, revision, renewal, and appeal of Acid Rain permits under this subpart.

(b) *Permit Issuance Deadline.* (1)(i) On or before December 31, 1997, a State with an approved operating permit program shall issue an Acid Rain permit for Phase II to each affected source in the geographic area for which the program is approved as set forth in paragraph (a) of this section; *provided* that the designated representative of the source submitted a timely and complete Acid Rain permit application in

accordance with § 72.21 of this part and meets the requirements of this subpart and part 70 of this chapter.

(ii) Each Acid Rain permit issued in accordance with this section shall have a term of 5 years commencing on its effective date. Each Acid Rain permit issued in accordance with paragraph (b)(1)(i) of this section shall take effect by the later of January 1, 2000, or, where the permit governs a unit under § 72.6(a)(3) of this part, the deadline for monitor certification under part 75 of this chapter.

(2) *Nitrogen Oxides.* Not later than January 1, 1999, the State permitting authority shall reopen the Acid Rain permit to add the Acid Rain Program nitrogen oxides requirements; *provided* that the designated representative of the affected source submitted a timely and complete Acid Rain permit application for nitrogen oxides in accordance with § 72.21. Such reopening shall not affect the term of the Acid Rain portion of an operating permit.

§ 72.74 Federal issuance of Phase II permits.

(a) The Administrator will be responsible for issuing Acid Rain permits for Phase II for any affected sources in a geographic area (including a State) that does not have an operating permit program with full, partial, or interim approval by the Administrator on or before July 1, 1996, under part 70 of this chapter. After approval of a State program, the Administrator will suspend, in accordance with this part and part 70 of this chapter, federal issuance of such permits for sources in the geographic area covered by the State program and the State shall be responsible for issuing such permits in accordance with § 72.73 of this part.

(b) *Permit Issuance Deadline.* (1)(i) On or before January 1, 1998, the Administrator will issue an Acid Rain permit for Phase II governing Acid Rain Program sulfur dioxide requirements to each affected source in a geographic area that, on July 1, 1996, did not have an approved operating permit program under part 70 of this chapter; *provided* that the designated representative for the source submitted a timely and complete Acid Rain permit application in accordance with § 72.21 of this part.

The failure by the Administrator to issue a permit in accordance with this paragraph shall be grounds for the filing of an appeal under part 78 of this chapter.

(ii) Notwithstanding paragraph (b)(1)(i) of this section, the Administrator may delegate to any State that obtains operating permit program approval after July 1, 1996, responsibility for permit review and implementation.

(iii) Each Acid Rain permit issued in accordance with this section shall have a term of 5 years commencing on its effective date. Each Acid Rain permit issued in accordance with paragraph (b)(1) shall take effect by the later of January 1, 2000 or, where a permit governs a unit under § 72.6(a)(3) of this part, the deadline for monitor certification under part 75 of this chapter.

(2) *Nitrogen Oxides.* Not later than 6 months following submission by the designated representative of a timely and complete Acid Rain permit application for nitrogen oxides, the Administrator shall reopen the Acid Rain permit for Phase II to add the Acid Rain Program nitrogen oxides requirements. Such reopening shall not affect the term of the Acid Rain permit.

(c) *Permit Issuance.* The Administrator will issue Acid Rain permits for Phase II in accordance with subparts E and F of this part and the regulations implementing title V of the Act.

[58 FR 3650, Jan. 11, 1993; 58 FR 40747, July 30, 1993]

Subpart H—Permit Revisions

§ 72.80 General.

(a) This subpart shall govern revisions to any Acid Rain permit issued by the Administrator and to the Acid Rain portion of any operating permit issued by a State with an approved operating permit program under part 70 of this chapter.

(b) The provisions of this subpart shall supersede the operating permit revision procedures specified in part 70 of this chapter with regard to revision of any Acid Rain Program permit provision.

(c) A permit revision may be submitted for approval at any time. No permit revision shall affect the term of the Acid Rain permit to be revised. No per-

mit revision shall excuse any violation of an Acid Rain Program requirement that occurred prior to the effective date of the revision.

(d) The terms of the Acid Rain permit shall apply while the permit revision is pending.

(e) Any determination or interpretation by a State (including a State court) modifying or voiding any Acid Rain permit provision shall be subject to review by the Administrator in accordance with § 70.8(c) of this chapter as applied to permit modifications, unless the determination or interpretation is an administrative amendment approved in accordance with § 72.83 of this part.

(f) The standard requirements of § 72.9 of this part shall not be modified or voided by a permit revision.

(g) Any permit revision involving incorporation of a compliance option that was not submitted for approval and comment during the permit issuance process, or involving a change in a compliance option that was previously submitted, shall meet the requirements for applying for such compliance option under subpart D and section 407 of the Act and regulations implementing section 407 of the Act.

(h) For permit revisions not described in §§ 72.81 and 72.82 of this part, the permitting authority may, in its discretion, determine which of these sections is applicable.

§ 72.81 Permit modifications.

(a) Permit revisions that shall follow the permit modification procedures are:

(1) Relaxation of an excess emission offset requirement after approval of the offset plan by the Administrator;

(2) Incorporation of a final nitrogen oxides alternative emission limitation following a demonstration period;

(3) Determinations concerning failed repowering projects under § 72.44(g)(1)(i) and (2) of this part.

(b) The following permit revisions shall follow, at the option of the designated representative submitting the permit revision, either the permit modification procedures or the fast-track modification procedures under § 72.82 of this part: